

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

TERRY D. REDMON	§	
VS.	§	CIVIL ACTION NO. 1:05cv595
KENNY KELLEY, ET AL.	§	

MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Terry D. Redmon, a prisoner confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Kenny Kelley and Tracy Baker.

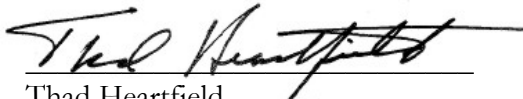
The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has filed a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action without prejudice for failure to exhaust administrative remedies.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties. However, plaintiff has filed a motion to voluntarily dismiss the action. After due consideration, the court is of the opinion plaintiff's motion should be granted and the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1).

ORDER

Accordingly, plaintiff's motion to voluntarily dismiss the case is **GRANTED**. The report of the magistrate judge is partially **ADOPTED** to the extent it recommends dismissing the action. A final judgment will be entered dismissing the action without prejudice in accordance with this Memorandum Order.

SIGNED this the **13** day of **September, 2005**.


Thad Heartfield
United States District Judge